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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

MICHAEL D. BOPP, STAFF DIRECTOR AND CHIEF COUNSEL
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September 28, 2005

The Honorable Michael Chertoff
Secretary
Department of Homeland Security
Washington, D.C. 20472

Dear Secretary Chertoff:

Pursuant to its authority under Rule XXV(k)(1) of the Standing Rules of the Senate, Section 101 of S. Res 445 (108th Congress), and Section 11(e) of S. Res 50 (109th Congress), the Committee on Homeland Security and Governmental Affairs has initiated an investigation into the Nation's preparedness for, and response to, Hurricane Katrina. To aid in this investigation, we request that the Department of Homeland Security ("DHS" or "Department") provide to the committee the following information and documents. These document requests apply to all parts of DHS except to the extent that responsive information and documents are being otherwise provided in response to requests sent directly to the Federal Emergency Management Agency ("FEMA"), the U.S. Coast Guard, and the Office of Infrastructure Protection.

1. A list of each component within DHS involved in the response to Hurricane Katrina and an organizational chart of DHS that reflects the organizational location of each such component within the Department. For each such component, please:
 - a. Describe its role in preparation for and the response to Hurricane Katrina;
 - b. Identify the individual(s) who hold or held each key position from August 23, 2005 to the present;
 - c. Detail how and when the component was first informed of the following events (please be specific as to dates, times and personnel involved):
 - i) that it would have to take action to prepare for or respond to Hurricane Katrina;
 - ii) that the President issued emergency declarations for Louisiana, Mississippi and Alabama with respect to Hurricane Katrina;
 - iii) that the President issued major disaster declarations for Louisiana, Mississippi and Alabama with respect to Hurricane Katrina;
 - iv) that Hurricane Katrina was an Incident of National Significance;
 - v) that the National Response Plan was being activated;
 - vi) that any annex or supplement to the National Response Plan was being activated.

2. A list of any interoffice task forces, working groups, or other interoffice entities within DHS, or any interagency entities in which DHS employees participated, whether formal or informal, that were involved in the preparation for, and response to, Hurricane Katrina. For each such interoffice or interagency entity, please:
 - a. Describe its role in the response to Hurricane Katrina;
 - b. Identify each of the individuals in each entity who played any role in the preparation for, and response to, Hurricane Katrina; and
 - c. Indicate whether it was created or activated specifically in the preparation for, and response to, Hurricane Katrina or whether it was a standing entity. For any entity created or activated in the preparation for, and response to, Hurricane Katrina, please provide the date on which the entity was created or activated and identify the individual who made the decision to create or activate the entity.
3. Regarding the respective roles and responsibilities of the Secretary of Homeland Security (Secretary) and the Under Secretary for Emergency Preparedness and Response/Director of FEMA:

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 - a. Please describe the respective roles and responsibilities of the Secretary and the Under Secretary for Emergency Preparedness and Response/Director of FEMA in preparing for and responding to a natural disaster.
 - b. Are these respective roles and responsibilities different in a catastrophic, or potentially catastrophic, event than in a lesser disaster or emergency? If so, how?
 - c. Are these respective roles and responsibilities different in the case of a terrorist attack than in a natural disaster? If so, how?
 - d. Please identify any statutory, regulatory, policy or other source for these roles and responsibilities, and, to the extent the sources identified are not publicly available, please provide copies of them.
4. When did DHS first begin planning for Hurricane Katrina? What were the actions DHS took at that time?
5. All documents that refer or relate to consideration of, or recommendations or requests for, declarations of emergencies or major disasters under the Stafford Act for Hurricane Katrina.
6. Describe in detail any consideration given to issuing an emergency declaration or proclamation pursuant to any authority other than the Stafford Act in preparation for or response to Hurricane Katrina. Please include whether there were any requests for such declarations, the type of declarations under consideration, the authority under which such declarations would be made, the personnel involved in such consideration, the time and date of such considerations and the outcome of each consideration.

7. When was a determination made that Hurricane Katrina constituted an Incident of National Significance? Please identify the key individual(s) in DHS involved in making this decision or providing advice on this decision.
8. National Response Plan (NRP) activation:
 - a. When was the NRP activated? Please identify the key individual(s) in DHS involved in making this decision or providing advice on this decision.
 - b. Which of the Emergency Support Function (ESF) annexes were activated? For each ESF that was activated, please indicate when it was activated and identify the key individual(s) in DHS involved in activating it.
 - c. Was the Catastrophic Incident Annex activated? If so, when? Please identify the key individual(s) in DHS involved in making the decision to activate it.
9. All documents that refer or relate to the activation or implementation of the NRP or any aspect thereof in connection with Hurricane Katrina, including, but not limited to, all documents that refer or relate to the actual or potential designation of Hurricane Katrina as an Incident of National Significance, the designation of a Principal Federal Officer in connection with Hurricane Katrina, and the activation or implementation of the NRP Catastrophic Incident Supplement or the Catastrophic Incident Annex or any aspect thereof in connection with Hurricane Katrina.
10. Please compare the authorities triggered by, immediate actions taken in response to, and resources made available as a result of, declarations of emergency or major disaster under the Stafford Act with those resulting from a determination of an Incident of National Significance. With respect specifically to Hurricane Katrina, please describe any actions taken and resources made available following the determination of an Incident of National Significance and explain how these differed from those actions taken and resources made available following the earlier declarations of emergencies or major disaster declarations.
11. All documents that refer or relate to the activation or implementation of the National Incident Management System in connection with Hurricane Katrina.
12. Please provide the National Response Plan Catastrophic Incident Supplement which is referred to in the Catastrophic Incident Annex to the National Response Plan, in whatever form available including draft form.
13. Please describe each instance, if any, in which DHS action regarding Hurricane Katrina was in any way hindered, delayed, limited or not taken because of concern over whether DHS had authority to take the action. Indicate key personnel involved and how the issue was resolved.

14. Please describe each instance, if any, in which action DHS wanted any other Federal agency to take regarding Hurricane Katrina was in any way hindered, delayed, limited or not taken because of concern over whether the agency had authority to take the action. Indicate key personnel involved and how the issue was resolved.
15. To the extent not already described, please describe each instance, if any, in which DHS personnel were involved in discussions about whether DHS or any other federal agency had the authority to take any action regarding Hurricane Katrina. Indicate key personnel involved and how the issue was resolved, including whether the action under discussion was in any way hindered, delayed, limited or not taken because of concern over whether the agency had authority to take the action.
16. To the extent not already described, please describe any discussions involving DHS personnel regarding the preparation for, or response to, Hurricane Katrina and the Posse Comitatus Act, the Insurrection Act, the National Emergencies Act, the President's Commander-in-Chief Authority or any Department of Defense Directive or Executive Order related to those authorities or to the use of the Armed Forces in a domestic emergency. Please be specific as to the purpose and nature of the discussions, the personnel involved, the time and date of the discussions, and the outcome of the discussions.
17. Please describe each instance in which DHS believes that any federal action that should have been taken in preparation for, or response to, Hurricane Katrina was delayed, limited or hindered or did not occur because of an action or failure to act of a State official. Please include in your answer the key personnel involved in each instance, the nature of the issue and of the concern, how the issue was resolved, a description of the action or actions that were impacted, the specific legal reasons why the State official's actions (or lack thereof) limited the Federal response, and whether such actions ultimately were taken.
18. All documents that refer or relate to emergency or disaster planning or preparedness of the states of Louisiana, Mississippi, or Alabama, or any localities therein, including, but not limited to, state homeland security or emergency plans, or other documentation submitted to the Office of Domestic Preparedness (ODP) as a condition of receiving grants or for other purposes, and any documents that refer or relate to DHS's review, consideration, analysis or approval of such plans or other documents.
19. All documents referring and relating to implementation of the National Preparedness Goal and compliance with the National Incident Management System in Louisiana, Mississippi, and Alabama.

20. All documents that constitute, refer or relate to any communication that refers or relates to any request for assistance, and any response thereto, to and from DHS by a representative of a state or local government in Louisiana, Mississippi or Alabama in connection with Hurricane Katrina, from August 23 through September 6, 2005.
21. All documents that constitute, refer or relate to any communication from DHS Headquarters to the Department's offices and employees located in Louisiana, Alabama, and Mississippi referring or relating to preparation for or response to Hurricane Katrina, from August 23 through September 6, 2005.
22. All documents created or received from August 20 through September 6, 2005 referring or relating to requests for assistance to, or offers of assistance from, or the consideration of making requests for, or accepting offers of assistance from, commercial airlines, bus lines, Amtrak and other rail carriers, or commercial ships, in transporting individuals from Louisiana, Mississippi or Alabama. All documents referring or relating to policies, procedures or guidance, or the consideration or development of such policies, procedures or guidance, for seeking assistance from commercial airlines, bus lines, Amtrak and other rail carriers, or commercial vessels in transporting individuals from a disaster area or potential disaster area.
23. All regulations, legal opinions, policies, procedures, and operating guidance referring or relating to offers of private sector assistance in the case of a natural disaster or catastrophic incident.
24. All documents that constitute, refer or relate to any communication referring or relating to offers of private sector assistance in preparing for, responding to and recovering from Hurricane Katrina, including but not limited to, offers submitted to the National Emergency Resource Registry, from August 23 through September 6, 2005.
25. Please identify the key individuals in DHS, other than those employed by FEMA, involved with the processing or acceptance of offers of assistance, including but not limited to supplies and personnel, from private, nonprofit, and non-federal public sector entities.
26. All documents referring or relating to vulnerability, importance, emergency planning, recovery and reconstitution of critical infrastructure in Louisiana, Mississippi, and Alabama, including but not limited to telecommunications, electricity and transportation infrastructure, ports, chemical and petrochemical facilities, and oil refineries and operations, produced or reviewed by DHS, in the past three years.
27. All communications referring or relating to vulnerability, importance, emergency planning, recovery and reconstitution of critical infrastructure in Louisiana, Mississippi, and Alabama, including but not limited to telecommunications, electricity and transportation infrastructure, ports, chemical and petrochemical facilities, and oil

refineries and operations, between DHS and Federal, State and local officials and the private sector from August 23, 2005 to the present.

28. All documents created in or by the DHS Public Affairs "Ready Room" referring or relating to Hurricane Katrina, including but not limited to the Ready Room Incident Log, from August 23 through September 6, 2005.
29. All documents referring or relating to approval, disapproval, or review at DHS of FEMA contracts or procurement requests related to Hurricane Katrina response and recovery from August 23, 2005 to the present.
30. All documents compiled by the HSOC referring or relating to Hurricane Katrina, including but not limited to situation reports and critical infrastructure prioritization charts, from August 23 through September 6, 2005.
31. All documents that constitute, refer or relate to any communication from August 23 through September 6, 2005, referring or relating to any Hurricane Katrina planning, operations and response, between DHS Headquarters and all DHS components and between DHS and other Federal agencies.
32. All documents from meetings, teleconferences or videoconferences relating to Hurricane Katrina on or prior to September 6, 2005.
33. All documents referring or relating to the vulnerability of critical infrastructure in the coastal areas of Louisiana, Mississippi, and Alabama, including but not limited to the vulnerability of, or the risk of failure or breach of the levee system or particular levees in or around New Orleans or the New Orleans metropolitan area.
34. All documents created or received from August 23, 2005 through September 6, 2005 referring or relating to:
 - a. Shortages in supplies, personnel, or equipment necessary to prepare for, or respond to, Hurricane Katrina;
 - b. Lost, misdirected, or delayed supplies, personnel, or equipment deployed in relation to Hurricane Katrina;
 - c. Other problems, issues, concerns, confusion or other inadequacies with the preparation for, and response to, Hurricane Katrina or otherwise involving Hurricane Katrina.
35. All after-action reports or retrospective evaluations, investigations or assessments prepared by, under the direction of, or under contract through DHS, excluding those created by or on behalf of FEMA or its contractors, relating to Hurricane Katrina, or the preparation for and response to Hurricane Katrina, from August 23, 2005 to the present.

36. Identify and, to the extent not publicly available, provide copies of all authorities, regulations, procedures, policies, and operating guidance related to DHS's ability to task, assign missions to, or seek assistance from other entities or organizations, including, but not limited to, any other federal agency, in responding to an emergency, major disaster, or incident of national significance.
37. All documents referring or relating to any tasking, requests for assistance, or mission assignments by DHS to other federal agencies in connection with Hurricane Katrina or the preparation for, or response to, Hurricane Katrina on or before September 6, 2005. Please identify key individuals in DHS, excluding FEMA and U.S. Coast Guard personnel, responsible for tasking, requests for assistance, or mission assignments for each agency.
38. Please describe generally all actions taken by DHS in any way related to evacuation efforts or assisting in evacuation efforts before Hurricane Katrina made landfall. Please identify key DHS individuals involved in such activities.
39. Please describe all actions DHS took to ensure that adequate and interoperable emergency communications capability would be available to government officials, first responders, and others involved in emergency response in Louisiana, Mississippi and Alabama. Please be specific as to dates, times and personnel involved.
40. All documents referring or relating to emergency communications in the areas affected by, or expected to be affected by, Hurricane Katrina, including, but not limited to requests for assistance with communications and plans to address communications failures.
41. Please identify all key Department personnel, excluding personnel employed by the National Communications System, with responsibility for emergency and interoperable communications in the areas affected by, or expected to be affected by, Hurricane Katrina.
42. All documents constituting, referring or relating to communications between DHS personnel and state or local officials or first responders, or with others in the private or nonprofit sectors assisting, or offering to assist, with the relief effort, concerning emergency communications capabilities, including the failure or inadequacy of emergency communications.
43. Please describe all actions DHS took to pre-position or predeploy Department assets, including the dates the actions occurred, the Department components involved, the location of the pre-positioning or pre-deployment and the assets involved.

44. Any record of the areas of Louisiana, Mississippi, and Alabama affected, or expected to be affected, by Hurricane Katrina, recorded between August 23, 2005 and September 6, 2005. For each such photograph, videotape, or other visual record, please indicate its source and when and where it was recorded.
45. All weather reports, maps, and briefings relating to Hurricane Katrina created, obtained, distributed to, or used by DHS on or before August 30, 2005.
46. All documents referring or relating to the role that the Department's medical response assets, including but not limited to the National Disaster Medical System, played in preparation for, or response to, Hurricane Katrina response efforts, and all documents relating to the readiness and performance of those assets in previous natural disasters.
47. ODP Information Bulletin No. 191, dated September 20, 2005, encouraged Metropolitan Medical Response System (MMRS) grantees "to use capabilities built through the MMRS program to support ongoing Hurricane Katrina recovery efforts." Please identify any MMRS jurisdictions that have used the grants they have received, or capabilities, supplies or equipment acquired with such grants, to assist in the response to and recovery from Hurricane Katrina, and describe the assistance each such MMRS jurisdiction has provided. Please describe any efforts DHS has made to coordinate this assistance and what policies or plans, if any, DHS has to reimburse or otherwise compensate MMRS jurisdictions that make available their resources in this manner, or to seek additional MMRS funding.
48. All documents generated in the past three years that refer or relate to requests for additional funding for FEMA or to concerns that FEMA had insufficient funding to implement its emergency preparedness or response mission, including, but not limited to any documents reflecting concerns that insufficient funding hindered FEMA from taking any measures or from engaging in any follow-up activities resulting from planning projects or exercises, including but not limited to the Louisiana Catastrophic Hurricane Planning Project and/or the planning exercise known as Hurricane Pam.
49. All documents that refer or relate to any concerns expressed to or within DHS about FEMA's budget, personnel or other resources; reductions in FEMA's budget over the last three years; diversion of FEMA funds to other parts of DHS; use of FEMA funds to pay for transition costs of other agencies into DHS; FEMA not being permitted to hire needed personnel or to fill available positions; any other resource issues within FEMA; or any diversion of resources from preparation for and response to natural disasters, including but not limited to in memorandums to Secretary Ridge, Deputy Secretary Loy, Secretary Chertoff, and Deputy Secretary Jackson.
50. All documents generated or received in the past three years referring or relating to concerns or warnings about deficiencies or deterioration in FEMA's emergency

management and other operational capabilities, or that FEMA's disaster relief mission had been compromised, including but not limited to communications from state and local emergency managers and independent experts.

51. All documents referring or relating to FEMA personnel shortages, hiring freezes in FEMA, inability to fill FEMA positions, delays in filling FEMA positions, and budget issues involving hiring of FEMA personnel, including but not limited to FEMA requests for additional personnel, and DHS's analysis of and response to such requests.
52. Secretary Chertoff's schedules from August 20, 2005 through September 6, 2005, and all documents referring or relating to Secretary Chertoff's schedules for that time period, including but not limited to calendars, datebooks, appointment logs, and telephone logs.
53. All documents created on or before September 6, 2005, and sent by, received by, or in the possession of the following individuals that refer or relate to Hurricane Katrina or the preparation for or the response to Hurricane Katrina: (1) Michael Chertoff and his staff; (2) Michael Jackson and his staff; (3) Janet Hale and her staff; and (4) Phillip Perry and his staff.
54. All documents that constitute, refer or relate to any communication on or before September 6, 2005, which refers or relates to Hurricane Katrina.

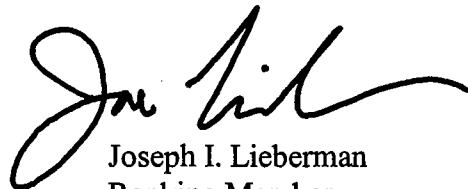
We request that these documents and information be provided as they become available but no later than October 27, 2005. If you or your staff have any questions concerning this request please contact Kathy Kraninger of the Committee's majority staff at 202-224-4751 or Beth Grossman of the Committee's minority staff at 202-224-2627.

We thank you and your staff in advance for your cooperation.

Sincerely,



Susan M. Collins
Chairman



Joseph I. Lieberman
Ranking Member